

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7383

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN HENRY MCFADDEN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. C. Weston Houck, Chief District Judge. (CR-90-430, CA-92-1960-3-2-BC)

Submitted: February 7, 1996

Decided: February 22, 1996

Before MURNAGHAN and WILLIAMS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

John Henry McFadden, Appellant Pro Se. Mary Gordon Baker, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (1988) petition. Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1988). The magistrate judge recommended that relief be denied and advised Appellant that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review by failing to file objections after receiving proper notice. We accordingly dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED